

NABER would not object to limiting conditional authorization for CMRS applications to restrict the commencement of operation no sooner than forty-five (45) days after Public Notice, and if no Petitions to Deny or mutually exclusive applications are received. This appears to be a reasonable safeguard. However, conditional licensing should be **expanded** to include **all** applications which have received frequency coordination.

7. License Term/Renewal Expectancy

NABER supports the proposed standard ten-year license term. In addition, the license renewal expectancy is vital to ensure that extensive business plans, construction and operation is not disrupted by applicants which seek to extract financial compensation from legitimate licensees.

8. Assignment of Licenses and Transfer of Control

Recently, the Commission adopted rules that require a licensee seeking assignment of a license acquired through auction or lottery to disclose the details of the transaction to the Commission if the proposed assignment is within three years of the grant of the license.²⁷ This rule was created to prevent unjust enrichment of auction and lottery winners.

In the current proceeding, the Commission has proposed to allow the assignment of most CMRS licenses after construction, as

²⁷See, First Report and Order, Implementation of Section 309 of the Communications Act - Competitive Bidding, PP Docket No. 93-253, 59 FR 9100 (February 25, 1994); Second Report and Order, Implementation of Section 309(j) of the Communications Act - Competitive Bidding, GN Docket No. 93-253, FCC 94-61 (released April 20, 1994).

is consistent with its current rules. However, comment is requested on assigning unconstructed systems. In addition, the assignment of unconstructed CMRS licenses on **shared** frequencies is proposed.

NABER believes that the assignment of unconstructed CMRS licenses on shared frequencies is acceptable. Since in most cases an applicant on shared frequency could obtain their own authorization, it would appear that to permit the unconstructed CMRS license to be transferred poses little risk of speculation.

With regard to exclusive channels, however, NABER believes that the transfer of an unconstructed system should only occur where the license was obtained via auction, and not by a lottery or first-come, first-serve procedures.²⁸ In transferring a license received via auction, the licensee has presumably already paid fair market value for the license. Therefore, the risk of pure speculation is dismissed. For applications obtained via lottery or first-come, first-serve procedures, however, NABER believes that the construction requirement should be retained in order to minimize the rampant speculation already being cause by application mills.

9. Conversion To CMRS Status By Existing Part 90 Licensees

The Commission proposes to identify SMR, Business Radio and 220 MHz service providers by review of the license's station

²⁸Wide-area, extended implementation licenses which are based upon the construction of the underlying analog systems should continue to be permitted to be transferred without requiring an unnecessary build-out of the system faster than practical for proper system configuration and customer changeover.


classification, and whether that classification indicates that the station is interconnected (i.e., FB2C or FB6C). However, the Commission should be aware that the FB2 classification is not only used for private carrier systems, but also private, owner-operated radio systems. Therefore, the Commission must also review the service category (YX, GX, GB, YB, IB, etc.) before reclassifying the system.

III. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.**

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